



# Texas Department of Insurance

## Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48  
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645  
512-804-4000 telephone • 512-804-4811 fax • [www.tdi.texas.gov](http://www.tdi.texas.gov)

### MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

#### GENERAL INFORMATION

**Requestor Name and Address**

NORTHSIDE PAIN RELIEF CENTER  
3033 FANNIN STREET  
HOUSTON TX 77004

**Respondent Name**

AMERICAN HOME ASSURANCE CO

**Carrier's Austin Representative**

Box Number 19

**MFDR Tracking Number**

M4-10-4422-01

**MFDR Date Received**

June 18, 2010

#### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "Payments were denied for the following reason: 1- Charge exceed your contract/legislated fee arrangement. All contracted Physical Therapy and-or Chiropractic charges should be billed through Medrisk."

**Amount in Dispute:** \$1,650.07

#### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** The insurance carrier did not respond to the DWC060 request. A copy of the DWC060 was placed in the insurance carrier representative box 19 on June 21, 2010. The DWC060 was stamped received by Brian Fitzgerald, FOL File Room on June 23, 2010. A decision will therefore be issued based on the documentation contained in the dispute at the time of the audit."

#### SUMMARY OF FINDINGS

| Dates of Service                        | Disputed Services                    | Amount In Dispute | Amount Due |
|---|--------------------------------------|-------------------|------------|
| July 29, 2009 through November 24, 2009 | 97124, 97140, 97110, 97112 and 97035 | \$1,650.07        | \$1,374.50 |

#### FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

**Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.203 sets out the fee guidelines for professional medical services.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits

- 1 (45) – Charges exceed your contracted/legislated fee arrangement.
- 97 – Payment is included in the allowance for another service/procedure
- \* – Any request for reconsideration of this workers' compensation payment should be accompanied by a copy of this explanation of review.

## Issues

1. Was the workers' compensation insurance carrier entitled to pay the health care provider at a contracted rate?
2. Did the requestor obtain preauthorization for the disputed CPT codes?
3. Did the requestor bill in conflict with the NCCI edits?
4. Is the requestor entitled to reimbursement?

## Findings

1. The insurance carrier reduced disputed services with reason code "1(45) – Charges exceed your contracted/legislated fee arrangement." Review of the submitted information found insufficient documentation to support that the disputed services were subject to a contractual fee arrangement between the parties to this dispute. Nevertheless, on January 26, 2011, the Division requested the respondent to provide a copy of the referenced contract as well as documentation to support notification to the healthcare provider, as required by 28 Texas Administrative Code §133.4, that the insurance carrier had been given access to the contracted fee arrangement. Review of the submitted information finds that the documentation does not support notification to the healthcare provider in the time and manner required. The Division concludes that pursuant to §133.4(g), the insurance carrier is not entitled to pay the health care provider at a contracted fee. Consequently, per §133.4(h), the disputed services will be reviewed for payment in accordance with applicable Division rules and fee guidelines.
2. Per 28 Texas Administrative Code § 134.600 "(p) Non-emergency health care requiring preauthorization includes: (5) physical and occupational therapy services, which includes those services listed in the Healthcare Common Procedure Coding System (HCPCS) at the following levels: (A) Level I code range for Physical Medicine and Rehabilitation, but limited to: (i) Modalities, both supervised and constant attendance; (ii) Therapeutic procedures, excluding work hardening and work conditioning."

Review of the preauthorization letter (certification number 051598901) dated June 12, 2009 issued by HDI Health Direct, Inc., indicates that the requestor obtained preauthorization for "Physical Therapy for the cervical spine – 12 units/days certified" with a begin date of June 9, 2009 and an expiration date of August 17, 2009. Disputed dates of service July 29, 2009 and July 31, 2009 are covered under certification number 051598901. As a result, these disputed charges will be reviewed pursuant to 28 Texas Administrative Code §134.203 (b).

Review of the preauthorization letter (certification number 052660201) dated August 6, 2009 issued by HDI Health Direct, Inc., indicates that the requestor obtained preauthorization for "Physical Therapy for the left shoulder – 6 units/days certified" with a begin date of August 3, 2009 and an expiration date of September 28, 2009.

Disputed dates of service August 6, 2009, August 12, 2009 are covered under certification number 052660201. As a result, these disputed charges will be reviewed pursuant to 28 Texas Administrative Code §134.203 (b).

Review of the preauthorization letter (certification number 054533001) dated November 11, 2009 issued by HDI Health Direct, Inc., indicates that the requestor obtained preauthorization for "Physical Therapy for the cervical spine – 2 units/days certified" with a begin date of November 5, 2009 and an expiration date of December 28, 2009. Disputed dates of service November 23, 2009 and November 24, 2009 are covered under certification number 054533001. As a result, these disputed charges will be reviewed pursuant to 28 Texas Administrative Code §134.203 (b).

3. Per 28 Texas Administrative Code §134.203 "(b) For coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following: (1) Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; bonus payments for health professional shortage areas (HPSAs) and physician scarcity areas (PSAs); and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules."

The division completed NCCI edit to identify edit conflicts that would affect reimbursement. The following was identified:

**Date of service July 29, 2009:** The requestor billed CPT codes; 97110-GP, 97112-GP, 97124-GP, 97140-GP. Per CCI Guidelines, Procedure Code 97124 has a CCI Conflict with Procedure Code 97140. A modifier is not allowed. As a result, reimbursement cannot be recommended for CPT code 97124.

**Date of service July 31, 2009:** The requestor billed CPT codes; 97110-GP, 97112-GP, 97124-GP, 97140-GP. Per CCI Guidelines, Procedure Code 97124 has a CCI Conflict with Procedure Code 97140. A modifier is not allowed. As a result, reimbursement cannot be recommended for CPT code 97124.

**Date of service August 6, 2009:** The requestor billed CPT codes; 97110-GP, 97112-GP, 97124-GP, 97140-GP. Per CCI Guidelines, Procedure Code 97124 has a CCI Conflict with Procedure Code 97140. A modifier is not allowed. As a result, reimbursement cannot be recommended for CPT code 97124.

**Date of service August 12, 2009:** The requestor billed CPT codes; 97110-GP, 97112-GP, 97124-GP, 97140-GP. Per CCI Guidelines, Procedure Code 97124 has a CCI Conflict with Procedure Code 97140. A modifier is not allowed. As a result, reimbursement cannot be recommended for CPT code 97124.

**Date of service November 23, 2009:** The requestor billed CPT codes; 97110-GP, 97035-GP, 97124-GP, 97140-GP and A4556.

Per CCI Guidelines, Procedure Code 97124 has a CCI Conflict with Procedure Code 97140. A modifier is not allowed. As a result, reimbursement for CPT code 97124 cannot be recommended.

**Date of service November 24, 2009:** The requestor billed CPT codes; 97110-GP, 97035-GP, 97124-GP, 97140-GP.

Per CCI Guidelines, Procedure Code 97124 has a CCI Conflict with Procedure Code 97140. A modifier is not allowed. As a result, reimbursement for CPT code 97124 cannot be recommended

4. Per 28 Texas Administrative Code §134.203 "(c) To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications. (1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is \$66.32. (2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year."

Per 28 Texas Administrative Code § 134.203 "(h) When there is no negotiated or contracted amount that complies with Labor Code §413.011, reimbursement shall be the least of the: (1) MAR amount; (2) health care provider's usual and customary charge, unless directed by Division rule to bill a specific amount; or (3) fair and reasonable amount consistent with the standards of §134.1 of this title."

Review of the submitted documentation finds that the requestor is entitled to reimbursement for the following:

**Date of service July 29, 2009:** The requestor is entitled to reimbursement for CPT codes; 97110-GP x 4 units, 97112-GP and 97140-GP.

The MAR reimbursement for CPT code 97110 x 4 units is \$169.55, this amount is recommended.

The MAR reimbursement for CPT code 97112-GP is \$43.27, this amount is recommended.

The MAR reimbursement for CPT code 97140-GP is \$38.99, this amount is recommended.

The requestor is entitled to a total reimbursement in the amount of \$251.81 for date of service July 29, 2009.

**Date of service July 31, 2009:** The requestor is entitled to reimbursement for CPT codes; 97110-GP x 4 units, 97112-GP and 97140-GP.

The MAR reimbursement for CPT code 97110 x 4 units is \$169.55, this amount is recommended.

The MAR reimbursement for CPT code 97112-GP is \$43.27, this amount is recommended.

The MAR reimbursement for CPT code 97140-GP is \$38.99, this amount is recommended.

The requestor is entitled to a total reimbursement in the amount of \$251.81 for date of service July 31, 2009.

**Date of service August 6, 2009:** The requestor is entitled to reimbursement for CPT codes; 97110-GP x 4 units, 97112-GP and 97140-GP.

The MAR reimbursement for CPT code 97110 x 4 units is \$169.55, this amount is recommended.

The MAR reimbursement for CPT code 97112-GP is \$43.27, this amount is recommended.

The MAR reimbursement for CPT code 97140-GP is \$38.99, this amount is recommended.

The requestor is entitled to a total reimbursement in the amount of \$251.81 for date of service August 7, 2009.

**Date of service August 12, 2009:** The requestor is entitled to reimbursement for CPT codes; 97110-GP x 4 units, 97112-GP and 97140-GP.

The MAR reimbursement for CPT code 97110 x 4 units is \$169.55, this amount is recommended.

The MAR reimbursement for CPT code 97112-GP is \$43.27, this amount is recommended.

The MAR reimbursement for CPT code 97140-GP is \$38.99, this amount is recommended.

The requestor is entitled to a total reimbursement in the amount of \$251.81 for date of service August 12, 2009.

**Date of service November 23, 2009:** The requestor is entitled to reimbursement for CPT codes; 97110-GP x 3 units, 97035-GP and 97140-GP..

The MAR reimbursement for CPT code 97110 x 3 units is \$127.17, this amount is recommended.

The MAR reimbursement for CPT code 97035-GP is \$17.47, this amount is recommended.

The MAR reimbursement for CPT code 97140-GP is \$38.99, this amount is recommended.

The requestor is entitled to a total reimbursement in the amount of \$183.63 for date of service November 23, 2009.

**Date of service November 24, 2009:** The requestor is entitled to reimbursement for CPT codes; 97110-GP x 3 units, 97035-GP and 97140-GP.

The MAR reimbursement for CPT code 97110 x 3 units is \$127.17, this amount is recommended.

The MAR reimbursement for CPT code 97035-GP is \$17.47, this amount is recommended.

The MAR reimbursement for CPT code 97140-GP is \$38.99, this amount is recommended.

The requestor is entitled to a total reimbursement in the amount of \$183.63 for date of service November 24, 2009.

Review of the submitted documentation finds that the requestor is entitled to reimbursement in the amount of \$1,374.50 for the disputed dates of service July 29, 2012 through November 24, 2009.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$1,374.50.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby **ORDERS** the respondent to remit to the requestor the amount of \$1,374.50 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

### **Authorized Signature**

|           |  |                  |
|-----------|--|------------------|
| _____     | _____                                  | January 16, 2014 |
| Signature | Medical Fee Dispute Resolution Officer | Date             |

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.**

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**